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**United States District Court
Northern District of California**

Peter Siegel,

Plaintiff,

vs.

Hewlett-Packard Company,

Defendant

)
) Case No: 5:12-cv-03787 HRL _____
)
) **MOTION AND Proposed ORDER TO**
) **SUPPLEMENT PLAINTIFF'S**
) **OPPOSITION TO MOTION FOR**
) **SUMMARY JUDGEMENT**
)
)

MOTION

Plaintiff Peter Siegel hereby moves the Court for an administrative order pursuant to Rule 7(b) of the Federal Rules of Civil Procedure and Rule 7-11 of the Local Rules of this Court to supplement the Plaintiff's Opposition to Motion for Summary Judgment filed on or about August 7, 2013. Specifically Plaintiff asks to supplement his Opposition to the pending Motion for Summary Judgment with the Supplemental Declaration of Peter Siegel in Opposition to Summary Judgment filed herewith. This motion is based on the following:

1. Plaintiff's Opposition to the Motion for Summary Judgment was prepared under time stress as responses to the Plaintiff's Requests for Admission were only received a day before the Opposition was due to be filed. In addition communications between

1 Plaintiff and his counsel were complicated and delayed by the fact that he is in the
2 UK and the time difference between California and the UK.

- 3 2. Plaintiff's counsel has a small firm and had no support staff during this time frame.
4 Accordingly, Counsel had to individually perform all the work necessary to finalize
5 and file the complex Opposition to the Motion for Summary Judgment with its
6 hundreds of pages of exhibits. This was a difficult task. In the urgent preparation of
7 the Opposition and related papers certain critical facts were inadvertently omitted
8 from the initial Declaration of Peter Siegel submitted in support of the Opposition. As
9 soon as counsel realized the error she contacted counsel for HP to announce that
10 Plaintiff would seek to file a supplemental declaration to cure the problem. Via e mail
11 counsel for Plaintiff informed Counsel for HP the details of the content of the
12 supplement. Attached hereto as exhibit A is a true and correct copy of the e mail
13 between counsel on this issue.
- 14 3. The time delay between the 9th and today was due in large part to the intervening
15 weekend and the time difference between California and the UK. It was necessary to
16 send the declaration to Mr. Siegel for his review and to incorporate his changes.
- 17 4. The supplemental facts are critical evidence concerning the issue presented by HP's
18 Motion for Summary Judgment and include matters covered by the recently served
19 Response to Request for Admissions.
- 20 5. The supplemental facts presented are largely no subject to dispute as they involve
21 matters such as the fact that HP uses a logo worldwide, the fact that it holds an annual
22 conference for the purpose of marketing its overall integrated global organization, and
23 the fact that HP has employee benefit plans which covered employees throughout the
24 integrated operation including both employees of Hewlett Packard Company and
25 employees of HP Enterprise Services UK Ltd. including Mr. Siegel. Some of the
26 supplemental facts are irrefutable admissions by HP taken from the filings by HP
27 Enterprise Services UK Ltd.
28

- 1 6. The Defendant will not be unduly disadvantaged by this supplementation of the
2 record because the defendant knew of the content of the supplemental declaration as
3 of August 9 and because Plaintiff offered to agree to extend the deadline for filing a
4 reply. Defendant HP's attorneys have been on notice of the intent to supplement and
5 the content of the supplemental Declaration since August 9.
- 6 7. Counsel for Plaintiff sent a copy of the Supplemental Declaration of Peter Siegel to
7 counsel for HP today via e mail.
- 8 8. Counsel for Plaintiff requested that Counsel for HP stipulate to supplementing the
9 Opposition as described herein. However, no response has been provided as of the
10 time of this filing. Due to the time factors involved with the motion process it was
11 necessary to file today.

12
13 Respectfully submitted,

14
15 Dated this 13th _day of August, 2013

16
17
18 /s/
Karen E. Ford Esq.
Attorney for Plaintiff

19
20
21 **[PROPOSED] ORDER**

22
23 WHEREFOR, the Court having considered Plaintiff's Motion to Supplement and good
24 cause having been shown therefor,

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26 IT IS HEREBY ORDERED THAT Plaintiff's Motion to Supplement is granted.

27
28 Dated: _____

HOWARD R. LLOYD
United States Magistrate Judge

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EXHIBIT A

Karen E. Ford

From: Karen E. Ford [karen@fordslaw.com]
Sent: Friday, August 09, 2013 2:27 PM
To: 'Riechert, Melinda S.'
Subject: siegel v hp summary judgment opposition supplement

Hello Melinda

I have just realized that I forgot to include some factual items in Mr. Siegel's declaration in opposition to the summary judgment. I do not think they are things that HP would dispute but I intend to file a supplemental declaration to bring them to the court's attention. I know that this is after the deadline for opposition but these are important issues that the court needs to know about. If doing this later declaration means you need more time to respond I will stipulate to an extension of your deadline. I wanted to give you as much notice as possible. I have not yet been able to finalize with my client but the supplemental declaration will include:

- 1-HP worldwide stock option plan (We discussed this early on in the case as an indicia of single employer status)
- 2-HP website for HR information
- 3-HP website where Siegel and all employees regardless of subsidiary reported their time
- 4-HP uses the same logo throughout all its operations including HP-UK. Defendant uses the shorthand name HP to refer to its overall organization as a single integrated whole.
- 5-The overall HP organization is divided into functional business units and the divisions are based on the type of product or service each unit specializes in, rather than subsidiary corporate entities or location. (this is already in the declaration but not stated in exactly this way)
- 6-HP encourages and engages in cross selling of its products and services even though these cross over both corporate lines and even business unit lines.
- 7-HP conducts training for employees and conferences for customers on a multinational basis without regard for corporate entities in the various countries. An example is the HP Discovery conference given at various locations around the world and in the US to service its multinational customers.
- 8-Business forms and reporting systems were uniform throughout the HP organization.
- 9-In reports filed with the UK government HP-UK stated that it "is a subsidiary of Hewlett-Packard Company and is dependent on this parent company for the supply of products/services and for its brand strength."
- 10-All HP employees use the same e-mail format and system. Siegel's e-mail address while employed at by HP was peter.siegel@hp.com.
- 11-Mr. Siegel received messages from HP managers in California encouraging him and other HP employees to think of HP as one family.
- 12-HP provides centralized training of employees and sets performance standards and goals that apply to employees of HP-UK.
- 13-HP sets health and safety standards for employees of HP-UK.
- 14-HP sets diversity and discrimination policy throughout the HP family of companies including HP-UK.

15-HP sets commitments to employees as well as employee initiatives and performance indicators.

16-Mr. Siegel as an employee of HP-UK was given an HP Global policies handbook with policies applicable to all HP employees worldwide including those at HP-UK.

17-set out in a report filed by HP-UK with the UK government:

"All employees' training and development is supported by continuing on-service education. Employees who have completed minimum periods of service are eligible to join both the company performance bonus and share purchase schemes of the Hewlett-Packard Company. Hewlett-Packard's goal is to create health and safety practices and work environments that enable employees to work injury-free. ...

The company believes that a diverse workforce encourages creativity and motivation and helps build an exciting, stimulating work environment. A diverse workforce, reflecting the demographics of the many different markets where Hewlett-Packard [HP] operates, also provides a competitive advantage and helps acquire new business."

18- Hewlett-Packard Company, for which HP Enterprise Services UK Limited is a subsidiary, publishes an annual corporate responsibility report where detailed companywide employee commitments, initiatives and key performance indicators can be found.

19- HP uses standardized forms, practices and systems that apply to all employees including the employees at HP-UK.

20-HP specifically sets policy for the treatment of disabled employees, the basis for the instant complaint.

21-HP sets ethical standards applicable to HP-UK employees. HP maintains a centralized Ethics and Compliance office in the US that oversees employee issues worldwide including employees assigned to HP-UK.

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Karen E. Ford

From: Karen E. Ford [karen@fordslaw.com]
Sent: Tuesday, August 13, 2013 1:11 PM
To: 'Riechert, Melinda S.'; 'Warner, Adelmise Rosemé'
Subject: Siegel v HP supplemental declaration
Attachments: 2013 8 13 SUPP decl of P Siegel in opposition to MSJ.pdf

Importance: High

Hello

Attached is a copy of the supplemental declaration of Peter Siegel that I told you about on August 9. I intend to file with the court today so they will have it as soon as possible. Will you stipulate to supplementing our opposition with this declaration? I need to inform the court. As time is important please get back to me today.

Karen E. Ford, ESQ

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